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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 DISCOVERY CLOTHING CO., an Illinois
19 Corporation; KNITWORK PRODUCTIONS
20 CORPORATION, a New York corporation
21 dba "Say What?"; ALL FASHIONS
22 CLOTHING, INC, a New York corporation
23 dba "Speed Control New York"; PROFILE
24 INDUSTRIES, INC., dba "Fashion Web";
25 and DOES 1 through 10,

26 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

27
28 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
this honorable Court for relief based on the following:

1 8. Plaintiff is informed and believes and thereon alleges that Defendant Profile
2 Industries, Inc., doing business as “Fashion Web” (“Fashion Web”) is a corporation
3 organized and existing under the laws of the state of New York, with its principal
4 place of business located at 1407 Broadway Ste. 2203, New York, New York 10018
5 and is doing business in and with the state of California.

6 9. Plaintiff is informed and believes and thereon alleges that Defendants
7 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
8 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,
9 or have engaged in one or more of the wrongful practices alleged herein. The true
10 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
11 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
12 by such fictitious names, and will seek leave to amend this Complaint to show their
13 true names and capacities when same have been ascertained.

14 10. Plaintiff is informed and believes and thereon alleges that at all times
15 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
16 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
17 at all times acting within the scope of such agency, affiliation, alter-ego relationship
18 and/or employment; and actively participated in or subsequently ratified and/or
19 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
20 circumstances, including, but not limited to, full knowledge of each violation of
21 Plaintiff’s rights and the damages to Plaintiff proximately caused thereby.

22 **CLAIMS RELATED TO DESIGN NO. 64818**

23 11. Plaintiff owns an original two-dimensional artwork used for purposes of
24 textile printing entitled 64818 (“Subject Design A”) which has been registered with
25 the United States Copyright Office.

26 12. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
27 bearing Subject Design A to numerous parties in the fashion and apparel industries.

1 13. Plaintiff is informed and believes and thereon alleges that following its
2 distribution of Subject Design A, Discovery, Say What, DOE Defendants, and each
3 of them distributed and/or sold fabric and/or garments featuring a design which is
4 substantially similar to Subject Design A (hereinafter “Subject Product A”) without
5 Plaintiff’s authorization, including but not limited to products sold by Discovery
6 under SKU 21938300690001 and bearing the label “Say What?” and RN 94522
7 indicating that it was manufactured by or for Say What.

8 14. An image of Subject Design A and an exemplar of Subject Product A are
9 set forth hereinbelow:

10 **Subject Design A**



Subject Product A



20 **CLAIMS RELATED TO DESIGN NO. 64893**

21 15. Plaintiff owns an original two-dimensional artwork used for purposes of
22 textile printing entitled 64893 (“Subject Design B”) which has been registered with
the United States Copyright Office.

23 16. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
24 bearing Subject Design B to numerous parties in the fashion and apparel industries.

25 17. Plaintiff is informed and believes and thereon alleges that following its
26 distribution of Subject Design B, Discovery, Speed Control, Fashion Web, DOE
27 Defendants, and each of them, manufactured, distributed, and/or sold fabric and/or
28

garments comprised of fabric featuring a design which is identical, or substantially similar, to Subject Design B (hereinafter “Subject Product B”) without Plaintiff’s authorization, including but not limited to products sold by:

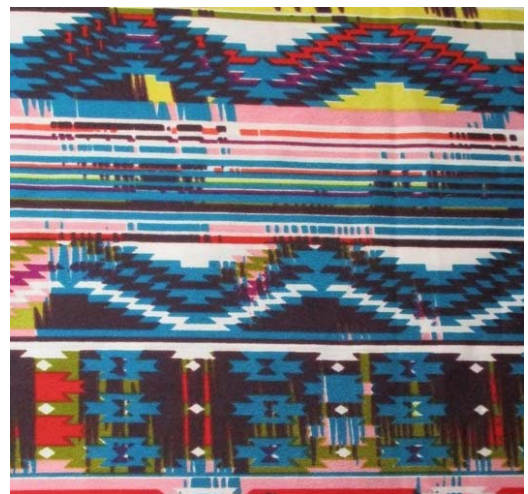
- a. Discovery under SKU 21951800690001 and bearing the label “Speed Control New York” and RN 117761 indicating that it was manufactured by or for Speed Control.
- b. Discovery under SKU 20933000690001 and bearing the label “Fashion Web” and RN 86763, indicating that it was manufactured by or for Fashion Web.

18. An image of Subject Design B and an exemplar of Subject Product B are set forth hereinbelow:

Subject Design B



Subject Product B



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

19. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

20. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Designs A and B (collectively, “Subject

1 Designs”), including, without limitation, through (a) access to Plaintiff’s showroom
2 and/or design library; (b) access to illegally distributed copies of Subject Designs by
3 third-party vendors and/or DOE Defendants, including without limitation
4 international and/or overseas converters and printing mills; (c) access to Plaintiff’s
5 strike-offs and samples, and (d) access to garments in the marketplace manufactured
6 with lawfully printed fabric bearing Subject Designs.

7 21. Plaintiff is informed and believes and thereon alleges that one or more of
8 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
9 further informed and believes and thereon alleges that said Defendant(s), and each of
10 them, has an ongoing business relationship with Defendant retailers, and each of
11 them, and supplied garments to said retailers, which garments infringed Subject
12 Designs in that said garments were composed of fabric which featured unauthorized
13 print designs that were identical or substantially similar to Subject Designs, or were
14 an illegal modification thereof.

15 22. Plaintiff is informed and believes and thereon alleges that Defendants, and
16 each of them, infringed Plaintiff’s copyright by creating, making and/or developing
17 directly infringing and/or derivative works from Subject Designs and by producing,
18 distributing and/or selling Subject Products through a nationwide network of retail
19 stores, catalogues, and through on-line websites.

20 23. Due to Defendants’, and each of their, acts of infringement, Plaintiff has
21 suffered damages in an amount to be established at trial.

22 24. Due to Defendants’, and each of their, acts of copyright infringement as
23 alleged herein, Defendants, and each of them, have obtained profits they would not
24 otherwise have realized but for their infringement of Subject Designs. As such,
25 Plaintiff is entitled to disgorgement of Defendants’, and each of their, profits
26 attributable to the infringement of Subject Designs in an amount to be established at
27 trial.

1 25. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, have committed copyright infringement with actual or constructive
3 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
4 and continue to be, willful, intentional and malicious.

5 **PRAYER FOR RELIEF**

6 Wherefore, Plaintiff prays for judgment as follows:

- 7 a. That Defendants—each of them—and their respective agents and
8 servants be enjoined from importing, manufacturing, distributing,
9 offering for sale, selling or otherwise trafficking in any product that
10 infringes Plaintiff's copyrights in Subject Designs;
11 b. That Plaintiff be awarded all profits of Defendants, and each of them,
12 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
13 or, if elected before final judgment, statutory damages as available under
14 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 15 c. That Plaintiff be awarded its attorneys' fees as available under the
16 Copyright Act U.S.C. § 101 et seq.;
- 17 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 18 e. That Plaintiff be awarded the costs of this action; and
- 19 f. That Plaintiff be awarded such further legal and equitable relief as the
20 Court deems proper.

21 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
22 38 and the 7th Amendment to the United States Constitution.

23 Dated: October 16, 2015

DONIGER/BURROUGHS

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25 By: /s/ Stephen M. Doniger
26 Stephen M. Doniger, Esq.
27 Howard S. Han, Esq.
28 Attorneys for Plaintiff